in ICC Docket No. 89-0033. An underlying cost study and allocation of overheads should be required. If Illinois Bell payphone revenues were less than Illinois Bell payphone costs the Commission had two choices: it could require higher end user rates to increase payphone revenues or could require the lowering of tariffed rates for noncompetitive services to reduce the payphone costs, or could order a blend of the two options. Currently, if Illinois Bell payphone costs exceed Illinois Bell payphone revenues the additional costs were being absorbed by residential, business, and non-LEC payphone providers. Mr. Segal testified that he did not have a preference as to whether non-LEC payphone providers received noncompetitive services at LEC costs or if non-LEC payphone providers received noncompetitive services at tariffed rates provided the tariffed rates were just and reasonable and imputed to the Illinois Bell payphone service. If non-LEC payphone providers receive noncompetitive services at LEC costs, it would result in lower end user rates on non-LEC payphones. If Illinois Bell's payphone services imputed the tariffed rates for noncompetitive inputs, Illinois Bell could not discriminate against its competitors and the comparable efficiencies of the operations would be determined.

Mr. Segal testified that Illinois Bell did not charge Illinois Bell payphones for directory assistance and therefore said charges to non-LEC payphones should be terminated.

C. Illinois Bell's Response Testimony

In response to the Payphone Association, Illinois Bell presented the testimony of Eric L. Panfil, Staff Manager in the Regulatory Department, Richard E. Krock, Director of Maintenance Engineering Center/Electronic Systems Assistance Center, and Dr. William E. Taylor, an economist and Vice President of National Economic Research Associates.

Mr. Panfil testified that Illinois Bell offers two distinct forms of pay telephone service: public coin telephone service and semi-public coin telephone service. Public coin telephone service is provided at the discretion of Illinois Bell. No charge is made to the premises owner, and the costs of the service are recovered through charges paid by end users. Semi-public telephone service is installed at the request of the premise owner. The premise owner pays the tariffed rate for the access line, the telephone terminal, and any associated enclosure. Calling charges are paid by end users.

Mr. Panfil testified that Illinois Bell's payphone service is an integrated set of network facilities including the payphone terminal and special circuitry in the central office switch. Central office circuitry controls the timing and rating of calls, recognition of coins deposited in the set by end users, coin control and return functions and provision of announcements. The payphone terminal has little or no intelligence and is controlled by the central office or operator services equipment via the use of tones and electrical impulses transmitted over the local access line. The FCC in Docket 84-270 ruled that instrument implemented payphones could be connected to the public network via regular subscriber lines. These payphones provided coin detection and answer supervision features through internal instrument implemented equipment. Subsequently, the Commission approved a tariff filed by Illinois Bell in ICC Docket No. 84-0442 for the provision of intrastate non-LEC payphone service. Since these two decisions, there has been growth of non-LEC payphone providers throughout the Illinois Bell territory. Mr. Panfil testified that Illinois has proved to be an especially attractive jurisdiction for non-LEC payphone providers because of its permissive resale policy and the reasonable rates provided by Illinois Bell. Illinois Bell's public coin telephone service costs are recovered through the calling charges to end users, which are significantly higher overall than calling charges to business customers in order to recover access line and other public coin telephone feature costs.

Mr. Panfil testified that Illinois Bell has received vigorous competition from non-LEC payphone providers, particularly at high revenue locations. Mr. Panfil submitted as exhibits cost studies of Illinois Bell's payphone service (LRSIC and 'equivalent contribution' analyses). Illinois Bell's payphone cost studies were based on a sampling of payphones. This study surveyed only sent-paid calls which are otherwise not recorded by Illinois Bell. It was based on this one-month sampling that Illinois Bell estimated the sent-paid usage rate for its payphones cost study. Illinois Bell used actual data in compiling its non-sent paid traffic information. All of the data submitted by Illinois Bell was on a statewide basis. Mr. Panfil stated that the level of competition did not significantly differ between MSAs. The last Illinois Bell payphone costs study was in 1983.

Mr. Panfil disagreed with Mr. Segal's testimony that Illinois Bell's operator service should pay non-LEC payphone providers access fees as compensation when Illinois Bell operator calls go through non-LEC payphone facilities. Mr. Panfil stated that this was unlike interexchange carrier ("IXC") access fees since IXCs pay Illinois Bell for use of Illinois Bell facilities and bill their end users, as do non-LEC payphone providers for sent-paid calls. With respect to operator service calls, non-LEC payphone providers do not pay Illinois Bell for the call. Instead, the providers may route their traffic to another operator service provider and obtain compensation. Mr. Panfil testified that Illinois Bell had, thus far, elected not to offer commissions to traffic aggregators (such as non-LEC payphone providers) and had requested no service from them for which compensation would be warranted. Illinois Bell stated that its directory assistance costs are recovered by other charges to end users of Illinois Bell's payphone service and are reflected in the cost studies submitted.

In his supplemental testimony, Mr. Panfil filed changes to the marginal cost analysis and equivalent contribution analysis previously provided. Mr. Panfil further testified that Illinois Bell had decided to compete with other operator service providers for non-LEC payphone non-sent paid traffic by the offering of commissions. This plan was to be implemented by the end of calendar year 1991.

Richard E. Krock testified comparing Illinois Bell's central office coin telephone service with the instrument-implement or smart coin telephone sets used by non-LEC payphone providers.

Dr. William E. Taylor, an economist, testified regarding whether Illinois Bell should impute tariffed rates for its noncompetitive services to its public telephone service, whether non-sent paid revenue should be treated symmetrically between Illinois Bell's public telephone and non-LEC payphone providers, and whether cverhead costs should be allocated to Illinois Bell's public telephone service and recovered in its rates.

Dr. Taylor believed that there was asymmetrical regulation between Illinois Bell's public telephone service and non-LEC payphone providers. He stated that Illinois Bell's rates were more regulated, that Illinois Bell had a public interest obligation, and that Illinois Bell could not provide interLATA service or information services.

Dr. Taylor took the position that long run marginal cost was the proper standard for pricing pay telephone services. Dr. Taylor also presented an equivalent contribution analysis and indicated its appropriate uses. He explained that the equivalent contribution analysis should only apply to services which non-LEC payphone providers use, for which they have no competitive alternatives to Illinois Bell's services, and which Illinois Bell's payphones actually use. He also testified that Illinois Bell should include all incremental revenue from operator services in its equivalent contribution and other cost analyses because they are generated for the set owner by placing the payphone set and could be lost if that location were served by a non-LEC payphone provider which subscribed its operator services to a different operator service company. Finally, Dr. Taylor testified that there was no economic basis for requiring Illinois Bell to pay commissions for operator services traffic. This is because, where other operator services were available, non-LEC payphone providers could obtain compensation for that traffic from other carriers in the marketplace and incur negligible incremental costs when a customer used their payphones to make an operator services call. Furthermore, if they had no alternatives, it would not make economic sense to require commission payments.

Dr. Taylor took issue with Mr. Segal's testimony that, since Illinois Bell's public telephone service does not charge for directory assistance, it should be provided to non-LEC payphone providers at no charge.

D. <u>Staff Response Testimony</u>

Calvin S. Monson, Director of the Telecommunications Program, Office of Policy and Planning for the Staff, believed that Illinois Bell payphone services clearly satisfied the Act's definition of a competitive service. Payphone service is available for many providers throughout the state, but especially in the Chicago area. He testified that Illinois Bell's payphone service should be declared competitive for the entire state.

E. <u>Payphone Association Rebuttal Testimony</u>

Mr. Segal testified in rebuttal that he recommend that the Commission do the following:

1. That all Illinois Bell payphone services be classified as competitive;

2. That Illinois Bell operator services be required to compensate all payphone providers, Illinois Bell and non-Illinois Bell, for the use of the payphone facilities in providing originating access to end users of Illinois Bell's operator services;

3. That the rates of the central office services that Illinois Bell provides be set based on the cost of the service.

Mr. Segal challenged the position that Illinois Bell operator services should not compensate non-LEC payphones for use of their facilities when utilized by Illinois Bell operator services. He stated that the proper amount of compensation for non-LEC payphone providers would be the amount of compensation Illinois Bell's operator services provide to Illinois Bell's payphones.

Mr. Segal agreed with Payphone Association witness Dr. Cornell that the only operator service revenue attributable to Illinois Bell payphones would be the amount of compensation Illinois Bell operator services offer to payphone providers generally.

Dr. Nina W. Cornell, an economist and former FCC Chief of the Office of Plannings and Policy, testified for the Payphone Association. She stated that she saw no natural factors which would make it more efficient for a single provider of payphone service instead of more providers. In her opinion, the public would best be served by a competitive market. She recommended that Illinois Bell be required to make equal interconnections available to non-LEC payphone providers and require Illinois Bell to pay the same amount for bottleneck monopoly inputs as charged to non-LEC competitors. She stated that Illinois Bell's revenues attributed to its payphones must cover the costs of its payphone service.

Should this reflect that the local coin rate, set by the Commission for universal service concerns, is too low to cover all costs, the Commission should adjust access line rates to a level that allows the desired coin rate to be sufficient to cover that charge plus the rest of the cost of service. The rate charged for this access line to non-LEC payphone providers should be the same as to Illinois Bell payphones. The Commission's interest is in having all payphone lines receive or not receive the benefit as part of the maintenance of universal service. Whatever decision the Commission makes must apply equally to Illinois Bell and to non-LEC payphone providers. Without such uniformity, effective competition cannot exist. Similarly, the Commission should ensure that directory assistance calls of Illinois Bell and non-LEC payphones are treated identically.

All payphone providers receive revenues from the deposit of coins in coin instruments plus any payments to payphone providers by other firms whose services are made accessible by the provision of the payphone.

Dr. Cornell stated that effective competition occurs when there are enough active firms in the market working completely independently of each other so that an attempt by any one firm or group of firms to raise prices unrelated to costs is defeated by other firms that do not follow suit. Effective competition exists when consumers have an effective alternative source of supply completely independent of the others so that no supplier can unduly affect the price. No matter how many firms are in the marketplace, the results of effective competition will not occur if one firm is able to control the quality or price of an essential input needed by all other firms.

Dr. Cornell stated that the proper test for a price squeeze was whether Illinois Bell's payphone service was recovering the cost of that service plus tariffed charges for essential monopoly inputs. This requires Illinois Bell to impute the tariffed charges applied to rival payphone providers. This can be conceptualized by envisioning Illinois Bell's payphone services in a separate subsidiary from the local exchange monopoly. Whatever a non-LEC provider would pay the local exchange for monopoly services would properly be charged as cost in the Illinois Bell payphone service. Dr. Cornell's review of the cost data submitted by Illinois Bell strongly suggested a price squeeze. However, she observed that Illinois Bell had not submitted all the necessary data for review. Illinois Bell had overstated the revenues attributable to pay its payphones from non-sent paid traffic and either omitted or understated some elements of payphone service costs. Dr. Cornell submitted that the Commission needed to review the data on Illinois Bell's public payphones which provide both coin and coinless service, separately from those Illinois Bell public payphones which provided coinless service only.

Dr. Cornell testified that Illinois Bell has inappropriately attributed all the operator surcharge revenues for non-sent paid traffic from a Illinois Bell payphone to the payphone service. Illinois Bell has refused to pay commissions for non-sent paid traffic sent to its operator service unless the traffic originates over a Illinois Bell payphone. If payphone services and operator services were effectively competitive in an economic sense, this tie would not have existed but for a very short time.

Dr. Cornell recommended that the Commission had two options for correcting the price squeeze. The Commission could order a reduction in the rates charged to payphone providers for monopoly inputs or could require the raising of charges to end users for payphone use. Obviously, the Commission could also do both. However the Commission wishes to correct the price squeeze depends in part on the question of what price the Commission believes should be charged at the Illinois Bell payphones for a local call given the role that payphones play in providing universal service. Any reduction in charges to non-LEC payphone providers would not constitute a subsidy to those payphone providers but to the end users who makes calls from those payphones. This would be part of the Commission determined policy of providing universal service. The rate to be charged to a non-LEC provider for an access line needs to be viewed in the same amount Illinois Bell should recover from its payphone users. The Commission must determine to what degree it wishes all payphones lines to either receive or not receive the benefit of any contribution towards universal service. Whatever the decision the Commission makes must be applied equally to Illinois Bell and non-LEC payphone providers. Unless this principle is followed, there cannot be effective competition. Regarding directory assistance, Illinois Bell should either be required to charge directory assistance to end users of its payphones or it should be provided free of charge to all payphone providers equally.

Dr. Cornell testified that the only non-sent paid compensation attributable to Illinois Bell payphones should be that 18% recently offered by Illinois Bell operator services to payphone providers. She stated that there are two services in question: operator services and payphone services. Illinois Bell offers operator services from any telephone. She stated that a price squeeze and cross-subsidies have the same effect on ratepayers. Both were predatory pricings raising rivals' costs without facing the same cost increases itself. Dr. Cornell defined a price squeeze as revenues being less than the tariff rates for bottleneck monopoly inputs and the total service long run incremental costs for the remaining inputs. Essential inputs were inputs without which the provider could not effectively offer service in the marketplace. This involves quality as well as function. Allocating 100% of Illinois Bell's operator service revenues is equivalent to a subsidy. All payphone inputs should be treated under the same terms and conditions between Illinois Bell and non-LEC providers.

Dr. Cornell suggested that one option for correcting the subsidy would be to reduce the network charges to non-LEC payphone providers which cost savings could be passed on to end users of non-LEC payphones through rates. Non-LEC providers cannot keep additional earnings from the reduced network charges because the competitive marketplace competition forces price down towards cost. In the long run, competition in the payphone market would force non-LEC providers to pass on the cost savings to end users.

F. Illinois Bell Surrebuttal Testimony

David H. Gebhardt, Senior Director of Regulatory Affairs for Illinois Bell, presented surrebuttal testimony and addressed many of the issues raised by the Payphone Association. He took the position that Illinois Bell had properly included all operator services revenues in its payphone cost studies. Mr. Gebhardt defined operator services as providing customers with the option of using an operator to either assist in the completion of a call or to have a call billed on demand other than to the originating line. These services include calling card calls, collect calls, third number billed calls, operator assisted calls, and person to person calls. Mr. Gebhardt testified that the Payphone Association's proposal to allocate to Illinois Bell's payphones only the amount of Illinois Bell's operator services revenues which Illinois Bell offers to non-LEC payphone providers creates an artificial distinction between Illinois Bell's payphone and operator services that has no basis in reality. He pointed out that Illinois Bell is a fully integrated carrier and that its payphones do not take service from a separate entity within the corporation. Mr. Gebhardt contended that Illinois Bell's payphone operation should not be artificially recast as a non-LEC payphone provider presubscribing to a separate operator services provider while competitors continue to benefit, and count the full revenues from integrating their operator services and payphone operations.

Mr. Gebhardt further contended that the Payphone Association's proposal ignores the way in which payphone placement decisions are actually made. He testified that all payphone providers" including Payphone Association members" determine the economic viability of any particular payphone location based on the total revenue stream produced by the payphone (both sent-paid and operator services revenues). He also testified that, if Dr. Cornell's revenue attribution approach were used in the payphone placement decision process, it would discourage Illinois Bell from making payphone placements that would benefit the general body of ratepayers.

Mr. Gebhardt also testified that Dr. Cornell's approach of using only 18% of operator services revenues was much too conservative. He presented testimony demonstrating that non-LEC payphone providers typically earn substantially more in commissions from other operator services providers and from "operator-in-the-boxÝ technology on operator services than the 18% commission rate would provide Illinois Bell in net revenues, largely because their operator services rates are much higher than Illinois Bell's. Mr. Gebhardt also presented data submitted by the national non-LEC payphone association to the FCC which showed that their average net revenues from intrastate operator services were higher than Illinois Bell's gross revenues.

Mr. Gebhardt also presented an analysis of the impact of classifying payphone services upon Illinois Bell's competitive services group in its surrebuttal testimony. In determining the proper common overhead and residual revenue requirement expenses to allocate as a result of the reclassification, Mr. Gebhardt testified that the company had used the relative LRSIC approach approved by the Commission in Docket 89-0033 (Remand), adjusted to remove all functionalities treated as noncompetitive in the payphone imputation study and for which tariffed rates were substituted. In addition, Illinois Bell removed the noncompetitive costs and revenues associated with non-traffic sensitive and traffic sensitive central office equipment associated with coin lines at cost, as no tariff rates were available at that time to use as the 'imputed' cost for these functionalities. The net result under Illinois Bell's analysis was that payphone revenues must be increased by approximately $9.6 million to maintain the same $5 million level of contribution that then existed in the competitive services category if its approach to the operator services revenue issues were adopted. As shown in Hearing Examiner's Exhibit 1, Illinois Bell took the position that a $17.5 million increase would be required if the Payphone Association's 18% view of operator services revenues were used. Illinois Bell took the position that it would reprice payphone services so as to maintain this existing revenue surplus in the competitive services category because it provided the only source of downward pricing flexibility for all of its other competitive services.

Mr. Gebhardt testified that calling from a payphone should be free of subsidies and that there were pricing options available to eliminate the revenue shortfall while maintaining affordable rates for local coin calls. Illinois Bell noted that a $9.6 million increase represented only a 6% increase in overall payphone rates, which have not been changed since 1984.

Illinois Bell presented testimony regarding the possible rate increases that, in aggregate, could produce $9.6 million or $17.5 million of additional revenues. These included: an increase in the calling card surcharge; a reduction in the untimed calling area associated with the $.25 local call to better match Illinois Bell's usage sensitive service tariff for end users; an increase in longer-haul coin zone rates; and an increase in the $.25 price for an untimed local call. With respect to directory assistance charges, Mr. Gebhardt testified that whether or not to charge customers for directory assistance from payphones was a business decision for each payphone provider to make. He explained that directory assistance charges were imputed to Illinois Bell's payphones and that its overall payphone rates had been set to recover those costs. Non-LEC payphone providers had the same option available to them. However, he testified that, if he had to choose between providing directory assistance to non-LEC payphone providers at no charge and charging Illinois Bell's end users, he would elect to charge Illinois Bell's end users.

Mr. Gebhardt did not believe that raising the local call rate from $.25 to $.30 or even $.35 would raise any significant public interest issues. As long as Illinois Bell were permitted to reprice its payphone service at the time it was declared competitive to eliminate any shortfall, there would be no concern about the continued availability of payphones and locations that serve the public interest.

Dr. Taylor testified that a vertically integrated competitive firm would attribute revenues and costs between operator services and payphone operations to maximize the joint profits of the enterprise. An integrated firm would look at the difference between total revenues and total costs of placing the payphone with the profit it would earn if it had not placed a payphone. It is the difference between those two total profit streams of the combined enterprise which matters.

Mr Panfil submitted additional cost studies showing marginal cost analysis and equivalent contribution analysis on coin telephone service. He also responded to many of the items upon which Mr. Segal criticized Illinois Bell's cost studies.

G. Payphone Association Sursurrebuttal

In sursurrebuttal, Dr. Cornell stated that Illinois Bell's equivalent contribution analysis did not establish that Illinois Bell payphones passed the test. She stated that the analysis showed that Illinois Bell payphones would require at least 33% of operator revenues if interstate access revenues were also taken into consideration. Applying only Illinois revenues, Illinois Bell payphones would require 50% of total Illinois Bell operator service revenues to pass the test.

Despite her disagreements with the cost analysis provided by Illinois Bell, Dr. Cornell used a cost study reflecting the cost as identified by Illinois Bell. Her only change to Mr. Panfil's last equivalent contribution cost study was to adjust the operator service revenues to the 18% level offered by Illinois Bell operators to non-LEC payphone providers and to deduct all incremental costs of Illinois Bell's operator services from the cost portion of the exhibit. Given those limited changes, this exhibit shows that Illinois Bell costs exceed the revenues of Illinois Bell's public payphone service by $249.05 per phone per year. Even if the interstate revenues were applied to the payphone service as requested by Illinois Bell, Illinois Bell's public payphone service costs would still be in excess of revenues by $115.41 per station per year.

Dr. Cornell responded to Mr. Gebhardt and Dr. Taylor that the real test was whenever operator service revenues were necessary to recover Illinois Bell's imputed payphone costs, Illinois Bell should be willing to pay non-LEC payphone providers the equivalent amount for directing that same traffic to Illinois Bell's operator services.

Applying the record data to the statutory tests, the Payphone Association stated in its brief that with the competitive classification of Illinois Bell's payphone services and with the allocation of Illinois Bell's operator service's gross revenues to Illinois Bell payphones in a percentage equal to the 18% offered by Illinois Bell's operator services to non-LEC payphones, Illinois Bell's payphone services would fail an imputation test by $9 million and Illinois Bell's competitive services would fail an aggregate revenue test by between $36 million and $64 million, depending on which Illinois Bell cost studies the Commission utilized.

H. Hearing Examiner's Data Request No. 2

In September, 1994, the Hearing Examiner reopened the record. A Hearing Examiner's Data Request No. 2 was issued to the parties to respond with calculations for imputation tests and aggregate revenue tests based on four different Hearing Examiner assumed resolutions of issues in this case. The Payphone Association and Illinois Bell each filed responses showing their respective calculations. No other parties to the proceedings submitted any calculations.

I. Stipulation and Agreement

Subsequent to the Payphone Association's and Illinois Bell's filings of calculations pursuant to the Hearing Examiner's Data Request No. 2, they entered into negotiations to determine if they could identify which issues had been resolved during the course of the proceedings and whether agreement could be reached on the remaining open issues. Pursuant to these discussions, the Payphone Association and Illinois Bell came forth with a stipulation submitted to the Hearing Examiner that the Payphone Association and Illinois Bell were agreed to the following:

> Illinois Bell's payphone services should be classified as competitive services pursuant to the Act;
>
> Illinois Bell's payphone services are separate and distinct services from Illinois Bell's operator-assisted services; and
>
> Given the above two stipulations, and based upon the cost and revenue information submitted in this proceeding, Illinois Bell's aggregate competitive services failed to pass the aggregate revenue test required under Section 13-507 of the

Act. The two parties would stipulate to accept a finding on this record of an annual aggregate competitive revenue shortfall in the amount of $27 million.

In consideration of the above, of the issues in dispute going back almost 10 years, and in resolution of the $27 million revenue shortfall for Illinois Bell's aggregate competitive services resulting from the Illinois Bell payphone services classification as competitive, the Payphone Association and Illinois Bell agreed to the following disposition of the complaint:

(1) Regardless of any rate changes or of the classification at any given time of Illinois Bell's operator-assisted services, Illinois Bell operator-assisted services shall allocate to Illinois Bell payphone services forty percent (40%) of the gross revenues for Illinois Bell's operator services traffic through Illinois Bell's payphones. This would reduce the $27 million competitive services aggregate revenue shortfall to $16.5 million. The total commissions, rental fees, signing bonuses, discounts, and any other financial benefit or form of compensation associated with the operation or placement of Illinois Bell payphone services with Illinois Bell operator services shall be included in determining the maximum amount of operator services revenue allocated to Illinois Bell's payphone imputation and service cost studies.

(2) Regardless of any rate changes or of the classification at any given time of Illinois Bell's operator services, to and including June 30, 2005 Illinois Bell shall pay each and every member of the Payphone Association a minimum of forty percent (40%) of the gross revenues for Illinois Bell's operator services traffic through any such member's individual telephone or aggregation of telephones. Payphone Association members may elect to take Illinois Bell's operator services under this paragraph on an individual telephone-by-telephone basis:

(a) provided that, to qualify, the individual telephone presubscribes all of what is currently known as intraMSA or intraLATA operator service traffic to Illinois Bell's operator services; and

(b) subject to the further agreement reached by the Payphone Association and Illinois Bell.

(3) Illinois Bell will restructure its sent-paid (coin) traffic as follows:

(a) Illinois Bell will measure and record its network usage of all sent-paid (coin) calling traffic on Illinois Bell payphones;

(b) Illinois Bell will restructure its end-user coin rates to reflect the three network usage bands by which measured usage traffic is charged to non-LEC payphone providers, identifying the zones as follows:

Network Band	Coin Zone
A	Local
B	A
C	B

(4) The rights and obligations of this paragraph extend through June 30, 2005. Regardless of the classification at any given time of Illinois Bell's network usage services, Illinois Bell shall offer to provide any individual payphone or aggregation of payphones of a member of the Payphone Association, with network usage at the following rates:

			Network Usage		
Area of Current Band	Initial & Subsequent Time Period	Peak Initial Period Charge	Peak Subsequent Period Charge	Shoulder Peak Charge	Off Peak Charge
A	1 minute	$ .0182	$ .0047	90% of Peak	60% of Peak
B	1 minute	$ .0372	$ .0107		
C	1 minute	$ .0488	$ .0161		

Peak, Shoulder Peak and Off Peak shall be as defined in the Illinois Bell tariff filed November 28, 1994, in compliance with ICC Docket No. 92-0448. These rates shall continue to be offered by Illinois Bell for any payphone of a member of the Payphone Association regardless of any changes in classification of Illinois Bell's usage services. Illinois Bell's other network service offerings shall otherwise follow the rates, terms, and conditions for business rates. A Payphone Association member may also elect to take usage under the same rates, terms, and conditions which Illinois Bell makes available to other carriers or businesses or may take usage from some other provider of usage services. Payphone Association members may exercise their election on usage services on an individual payphone-by-payphone basis. In the event Illinois Bell restructures its network usage services, regardless of their classification, Illinois Bell may propose amendments to these rates to be accompanied by a demonstration by Illinois Bell that the restructured rates provide equivalent financial benefits to the Payphone Association members. Upon such a demonstration, the Payphone Association shall not unreasonably withhold its agreement to any such restructured usage services.

III. COMMISSION DISCUSSION AND CONCLUSIONS

The Commission is of the opinion that the stipulation presented by the parties is supported by the record in this proceeding and should be approved.

A. Competitive Classification of Illinois Bell's Payphone Services

All parties to the proceeding, including Illinois Bell, which have addressed the classification issue now concur that Illinois Bell's payphone services are competitive services under the Act. Based upon the extensive facts of record cited above, the Commission agrees with these parties that Illinois Bell's payphone services are properly classified statewide as competitive services under the Act. The Commission takes administrative notice that effective April 1, 1995, Illinois Bell has declared in its tariff its payphone services as competitive.

B. Treatment of Illinois Bell's Payphone Services and Operator Services

In the stipulation, the Payphone Association and Illinois Bell have agreed that Illinois Bell's payphone services are separate and distinct services from Illinois Bell's operator services. In its filings of March 31, 1995, as in the past, Illinois Bell filed separate tariffs for these services. The Commission recognizes that the Act and the Commission have treated operator services and payphone services as separate and distinct. For example, in 1990 the legislature passed Section 13-901 of the Act specifically addressing operator service providers. In 1992, the Act added Section 13-510 regarding operator services use of payphone facilities or services. The Commission opened ICC Docket No. 92-0275 rulemaking addressing both payphone and operator services, later separating the operator services into a separate rulemaking in ICC Docket No. 93-0335 after the 1993 amendment to Section 13-901. Operator services are separately regulated under Part 770 of the Commission rules. Based upon the above record, the Commission agrees that Illinois Bell's payphone services constitute separate and distinct services from Illinois Bell's operator services.

C. Imputation and Aggregate Revenue Tests

An extensive amount of time during the course of these proceedings was spent on reviewing the costs and revenues of Illinois Bell's payphone services, operator services, and noncompetitive and competitive services categories. As part of the classification of Illinois Bell's payphone services as competitive, these services are required to satisfy an imputation test under Section 13-505.1 of the Act. Furthermore, the aggregate revenues of the competitive services category is required to pass the aggregate revenue test under Section 13-507 of the Act. The Payphone Association took the position that Illinois Bell's payphones failed to satisfy the imputation test standard by approximately $9 million and that the aggregate revenue of the competitive services category showed a cross-subsidization of approximately $36 million to $64 million, based upon which cost study was adopted. Illinois Bell responded that its analysis of cost and revenue figures would show that its payphone services would pass the imputation test, but that the competitive services category would fail to satisfy the aggregate revenue test in an amount between $9.6 million and $17.5 million, depending upon the Commission's treatment of operator service revenues. Given the parties' differences of opinion between an aggregate competitive revenue shortfall of $17.5 million and $36 million, the parties have agreed in the stipulation that a finding of an aggregate competitive services revenue shortfall of $27 million would be supported by the facts of record. Furthermore, the parties agree that adjustments in Illinois Bell payphone revenues to satisfy the $27 million shortfall would also result in Illinois Bell's payphones satisfaction of the imputation test based on the facts of record. Considering the extensive documented testimony and the positions of the parties, the Commission agrees with the stipulation and finds that an aggregate revenue test shortfall of $27 million is supported by the record.

The stipulation provides that the shortfall shall be satisfied in the following manner:

1) $10.5 million by allocating to Illinois Bell's payphone services forty percent (40%) of Illinois Bell's gross operator services revenues for operator services traffic through those payphones; and

2) $16.5 million in increases through the restructuring of Illinois Bell's coin rates.

The Commission agrees that the above satisfaction of the shortfall is just and reasonable. Given these corrections of the shortfall in Illinois Bell payphone revenues, Illinois Bell payphones services' would also satisfy the imputation test.

D. Illinois Bell Operator Service Revenues Through Payphones

One of the most intensely contested issues in this proceeding has been the relationship and treatment of operator services revenues for operator services traffic through payphones. The record reflects that this has been an issue between the parties since the initiation of competitive payphone services over 10 years ago. When competitive payphone services began and Illinois Bell provided the only local exchange operator services, non-Illinois Bell payphones received no compensation for Illinois Bell operator services traffic through their payphones. The cost study information indicates, and the parties agree, that both the Illinois Bell and the non-LEC payphone services could not recover their costs without receiving revenues for the operator services traffic through the payphone.

During the course of these proceedings, Illinois Bell operator services announced a compensation plan to non-LEC payphones. However, the proper level of compensation remained an issue. Under the stipulation, the parties have concurred that Illinois Bell payphone services should receive credit for forty percent (40%) of the gross charges of Illinois Bell operator services through Illinois Bell's payphones. The total commissions, rental fees, signing bonuses, discounts, and any other financial benefit or form of compensation associated with the operation or placement of Illinois Bell payphone services with Illinois Bell operator services shall be included in determining the maximum amount of operator services revenue allocated to Illinois Bell's payphone imputation and service cost studies.

Illinois Bell has also agreed to offer to any payphone provided by a member of the Payphone Association no less than 40% compensation of Illinois Bell operator services revenues through those payphones, subject to the terms and conditions above identified in the stipulation, to and including June 30, 2005. The parties have agreed to these terms and conditions regardless of the classification of Illinois Bell's operator services or any changes in the tariffed rates. The parties acknowledge that this finding is subject to the further agreement reached by the parties. The compensation rate to the Payphone Association members may exceed 40%.

The Commission recognizes the lengthy period over which this issue has been in dispute and its significance in the development of competitive payphone services. Through the stipulation the parties have addressed both the issue of the proper allocation of operator services revenues to Illinois Bell's payphones and the treatment of Illinois Bell's operator services revenues to non-Illinois Bell payphone providers. We note that the Act requires that operator services traffic through payphones compensate those payphones for the use of their services and facilities under Section 13-510 of the Act. The stipulation identifies and structures the relationship of payphone services and operator services which both recognizes the historical relationship of these services and promotes competition in payphone services through a cost-recovery method which should promote overall lower end user rates. The Commission agrees with the 40% allocation of Illinois Bell's operator services revenues to its payphone services because Illinois Bell will offer at least this percentage to the Payphone Association members. We find that the terms of the stipulation by the parties is a just and reasonable resolution of these issues in compliance with the Act, given the particular history and circumstances set forth in the record between the Payphone Association and Illinois Bell.

E. <u>Restructuring of Coin Rates</u>

For calculating the imputation test it is necessary to determine the various network usages by Illinois Bell's payphone services in duration, distance, frequency, and time of day. However, Illinois Bell's payphone services lack of recorded usage data caused the imputation test information to be subject to question. Illinois Bell's coin end user zones also did not match the network usage bands being billed to competing payphone providers. This has added to the complexity of the imputation test application.

Under the stipulation, the parties have agreed that Illinois Bell payphone services shall measure and record the actual network usage through those payphones. Furthermore, Illinois Bell will restructure its coin rates to match the network usage bands currently being charged to competing payphone providers. The Illinois Bell payphone coin zone for Local will be adjusted to mirror the current Band A network usage area charged to competing payphone providers. Illinois Bell coin Zones A and B shall collapse into a new Zone A, which shall mirror the Band B network usage area. Illinois Bell coin Zones C through H shall collapse into a new coin Zone B, which area shall mirror the Band C network usage area. Illinois Bell's end user coin rates shall go to a measured usage rate of three minutes for the initial deposit and an additional charge for each additional minute. Illinois Bell also will restructure end-user sent-paid (coin) rates to produce a minimum additional $16.5 million to satisfy the competitive services aggregate revenue shortfall.

Requiring the measurement of network usage from Illinois Bell's payphones and the restructuring Illinois Bell's coin zones properly structures Illinois Bell's payphone services in a competitive environment for purposes of applying imputation test standards. Adjusting the local coin rates to measured usage reflects this Commission's policy of cost-based rates which has moved other end user rates to measured usage, as is reflected in the network usage rates underlying the payphone services.

When the Commission set Illinois Bell's local coin rate at $.25 over ten years ago, even then the rate was identified as below cost. (See ICC Docket No. 83-0005, Order, Commissioner Barrett's Concurring Opinion.) With the additional legal requirements to recover imputed costs and common expenses, adjustments must be made in the rates. Adjustment of the coin rates places the cost recovery for the payphone services on the end user of those services. The Commission notes that we recently ordered an increase in the initial local coin rate for GTE public payphones based only upon a review of GTE's payphones long run service incremental costs. ICC Docket Nos. 93-0301/94-0041. The Commission finds that the stipulation restructuring Illinois Bell's payphone rates is just and reasonable and will bring Illinois Bell's competitive services into compliance with the Act with the classification of Illinois Bell's payphone services as competitive.

F. <u>Other Payphone Association Issues</u>

The record demonstrates the extensive and often difficult evolution of competition in services previously structured for a sole provider. Over the past 10 years payphone services served to be one of the initial areas of direct competition with the incumbent local exchange company. Through actual operations have evolved the issues and the resolution which the parties have addressed herein. As part of the stipulation resolving this complaint proceeding, the Payphone Association and Illinois Bell have agreed to further relief to the Payphone Association members in the form of a reduced offering of network usage rates through and including June 30, 2005.

The stipulation, particularly in the areas of allocating operator services compensation and of network usage, takes into consideration the facts of record and positively addresses the issues on a going forward basis. With the adjustments that the Commission is ordering herein, the Commission expects an even more vigorous and active competitive environment in the payphone services. The proposed network usage offering should assist the Payphone Association members' efforts by reducing their costs. We agree with the parties that this should only serve to further promote the development of an even more competitive payphone marketplace. However, the Commission recognizes that ordering the network usage rates stated herein does not prevent investigation of these rates during the term identified for compliance with the Act's requirements such as satisfaction of the statutory imputation tests. Subject to any adjustments needed over the stated term for compliance with the requirements of the Act, Illinois Bell will be required to make the network usage rates available as indicated to the Payphone Association members. On this basis we find that the agreed-upon relief is a just and reasonable resolution of the complaint, will further the Commission's policy of fostering development of competition in the marketplace, and will assist in keeping end user rates down.

A number of other issues raised in this proceeding between the Payphone Association and Illinois Bell have also been resolved between the parties in a separate agreement. Based upon the parties' resolution of these issues, the Payphone Association and Illinois Bell agree that the Commission does not need to address in this Order the remaining issues raised in the proceeding. The Commission commends the parties for having settled their differences and reached a negotiated resolution of their issues. As the Commission continues to develop competition in telecommunication services, it is hopeful that even more of the disputes arising from the restructuring of the telecommunications industry into a competitive marketplace will be resolved by reasonable negotiation and agreement between the carriers, thus eliminating the necessity for extended proceedings and Commission action.

IV. COMMISSION'S FINDINGS AND ORDERS

The Commission, having considered the entire record herein, and being fully advised in the premises thereof, is of the opinion and finds that:

(1) Illinois Bell Telephone Company is an Illinois corporation engaged in the business of providing telecommunications services to the public in the State of

Illinois and, as such, is a telecommunications carrier within the meaning of Section 13-202 of the Illinois Public Utilities Act;

(2) the Commission has jurisdiction over Illinois Bell and the subject matter of this proceeding;

(3) the recitals of facts and conclusions reached in the prefatory portion of this Order are supported by the evidence of record and are hereby adopted as findings of fact for purposes of this Order;

(4) Illinois Bell's pay telephone service should be classified as a competitive service, as defined by the Act; this finding applies to all of Illinois Bell's pay telephones, including public, semi-public, and coinless, and shall extend to all of Illinois Bell's pay telephones in the State of Illinois;

(5) Illinois Bell's payphone services are separate and distinct services from Illinois Bell's operator-assisted services;

(6) based upon the cost and revenue information submitted in this proceeding, with the competitive classification of Illinois Bell's pay telephone service Illinois Bell's aggregate competitive services have an aggregate competitive revenue test shortfall in the amount of $27 million.

IT IS THEREFORE ORDERED THAT:

1) Regardless of any rate changes or of the classification at any given time of Illinois Bell's operator-assisted services, Illinois Bell operator-assisted services shall allocate to Illinois Bell payphone services forty percent (40%) of the gross revenues for Illinois Bell's operator services traffic through Illinois Bell's payphones. This reduces the $27 million competitive aggregate revenue shortfall to $16.5 million.

2) Regardless of any rate changes or of the classification at any given time of Illinois Bell's operator services, to and including June 30, 2005 Illinois Bell shall pay each and every member of the Payphone Association a minimum of forty percent (40%) of the gross revenues for Illinois Bell's operator services traffic through any such member's individual telephone or aggregation of telephones. Payphone Association members may elect to

take Illinois Bell's operator services under this paragraph on an individual telephone-by-telephone basis:

a) provided that, to qualify, the individual telephone presubscribes all of what is currently known as intraMSA or intraLATA operator service traffic to Illinois Bell's operator services; and

b) subject to the further agreement reached by the Payphone Association and Illinois Bell.

3) Illinois Bell shall restructure its end-user sent-paid (coin) rates in the structure as above described and to produce a minimum additional $16.5 million to satisfy the competitive services aggregate revenue shortfall.

4) Regardless of the classification at any given time of Illinois Bell's network services, to and including June 30, 2005, Illinois Bell shall offer to provide any individual payphone or aggregation of payphones of a member of the Payphone Association with network usage at the above described rates.

IT IS FURTHER ORDERED THAT, by July 1, 1995, Illinois Bell shall file tariffs for the implementation of conclusions reached by the Commission. With the filing of the above-stated network usage rates, Illinois Bell shall submit supporting cost studies.

IT IS FURTHER ORDERED THAT, all motions, petitions, and tariffs not previously disposed of are hereby disposed of consistent with the findings of this Order.

IT IS FURTHER ORDERED THAT, the Chief Clerk of the Commission should maintain information identified as proprietary and data so designated in this proceeding in a manner which will not permit disclosure, dissemination, revelation or reproduction thereof without further Order of the Commission; provided that the proprietary information and data shall be certified on any appeal in any manner which informs the Clerk of any Court of the action of this Commission with regard thereto in order to enable any such Court to enter such order or orders as such Court shall deem necessary and proper.

IT IS FURTHER ORDERED THAT, subject to the provisions of Section 10-113 of the Public Utilities Act and 83 Ill.Adm.Code 200.800, this Order is final; it is not subject to the Administrative Review Law.

By Order of the Commission this 7th day of June, 1995.

(SIGNED) DAN MILLER

Chairman

(S E A L)

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

CERTIFICATE

Re: 88-0412

I, DONNA M. CATON, do hereby certify that I am Chief Clerk of the Illinois Commerce Commission of the State of Illinois and keeper of the records and seal of said Commission with respect to all matters except those governed by Chapters 18a and 18c of The Illinois Vehicle Code.

I further certify that the above and foregoing is a true, correct and complete copy of order made and entered of record by said Commission on June 7, 1995.

Given under my hand and seal of said Illinois Commerce Commission at Springfield, Illinois, on June 9, 1995.

Donna M. Caton
Chief Clerk

7

ORDER OF THE ILLINOIS COMMERCE COMMISSION

DOCKET NO. 92-0400

OCTOBER 5, 1995